

REMARKS

Claims 1 and 3 through 30 are currently pending in this application. Upon entry of this amendment, claims 1, 3, 5 through 7, 10 through 15, 20 through 24, and 26 through 30 will remain pending in the application. Claims 16, 18 and 19, previously withdrawn from consideration as being directed to non-elected species, have been canceled by this amendment without prejudice, thus preserving the right to file one or more division applications to prosecute the subject matter of said claims.

Claims 1, 3 through 15 and 20 through 30 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,722,936 to Jacob.

Jacob is directed primarily to the topical application of ascorbic acid to open wounds or to the vaginal area during menses to inactivate toxins known to contribute to Toxic Shock Syndrome. Jacob also discloses that the ascorbic acid adds the secondary benefit of deodorization when used in an amount of at least 100 mg for each carrier or dose (col. 3, lines 13-17 and lines 54-63).

Claim 1 recites a tampon for absorbing body fluids. The tampon has one or more malodor counteractant materials selected from the group consisting of: glycerin, glycerin compound, aldehyde, natural oil, solution of soluble natural compound, natural plant and herb extract, naturally occurring deodorizing active, citric acid, base, EDTA, ester, masking agent, sensory receptor alterant, oxidizing agent, biological agent, surfactant, surface active polymer, and any mixtures thereof. The one or more malodor counteractant materials is in a liquid form and is present in an amount about 0.01 grams to about 50% of the total weight of the tampon.

It is respectfully submitted that Jacob fails to disclose or suggest a tampon with one or more malodor counteractant materials selected from the claimed Markush group present between about 0.01 grams to about 50% of the total weight of the tampon, as required in claim 1. To the contrary, Jacob only discloses the use of ascorbic acid primarily for its antitoxin effect and secondarily for its deodorization effect. No other compounds are disclosed or even remotely suggested in Jacob as having either an

antitoxin effect or a deodorizing effect. The only additional components disclosed in Jacob are those ancillary components like a base or inert aqueous pharmaceutical material that serves solely as a carrier for the ascorbic acid. By way of example, 5-10% (w/w) glycerin is disclosed as one of a laundry list of ingredients that forms an inert carrier for the ascorbic acid (col. 8, lines 14-23). In no way is glycerin or any other compound disclosed or suggested as being used as a malodor counteractant material in a tampon, let alone in the amount recited in claim 1. This is evident from Jacob's explicit description of the carrier material as being inert, i.e., non-reactive, which is entirely contrary to the fundamental mechanisms and properties that are associated with the malodor counteractant materials of the present invention, which fundamentally must be reactive with malodor to work. Therefore, Jacob cannot anticipate claim 1 for at least the reasons set forth above.

Dependent claim 3 recites the tampon of claim 1 and further discloses that the one or more malodor counteractant materials is glycerin. On page 3 of the Action, Jacob is inaccurately characterized as disclosing glycerin as part of the counteractant material. The only "counteractant material" disclosed or suggested in Jacob is ascorbic acid. As noted above with respect to claim 1, glycerin, among a laundry list of other compounds, is disclosed as an inert carrier material for the ascorbic acid, and nothing else. Again, there is nothing in Jacob to remotely suggest that the glycerin, in the disclosed amount, functions as anything else but a component of an inert carrier material for the ascorbic acid. Therefore, Jacob cannot anticipate claim 3.

The novel feature of claim 4 has been incorporated into revised independent claim 1, and claim 4 is subsequently canceled by this amendment. Thus, the rejection of claim 4 is rendered moot.

Claim 5 recites the tampon of claim 1 and further recites that the one or more malodor counteractant materials is present between about 0.1 grams to about 20% of the total weight of the tampon. As noted above with respect to claim 1, Jacob fails to disclose or suggest a tampon with one or more malodor counteractant materials selected from the claimed Markush group present between about 0.01 grams to about

50% of the total weight of the tampon. Therefore, it follows that Jacob fails to disclose or suggest the tampon of claim 1 with one or more malodor counteractant materials is present between about 0.1 grams to about 20% of the total weight of the tampon, as recited in claim 5. Thus, claim 5 is not anticipated by Jacob.

Independent claim 6 recites a tampon for absorbing body fluids. The tampon comprises glycerin present in an amount about 0.01 grams to about 50% of the total weight of the tampon. The glycerin is naturally sourced.

Applicants respectfully submit that the arguments set forth above for claims 1 and 5 apply equally to claim 6. Namely, Jacob fails to disclose or suggest a tampon comprising glycerin present in an amount about 0.01 grams to about 50% of the total weight of the tampon. Moreover, Jacob also fails to disclose or suggest a naturally sourced glycerin, as recited in claim 6. Despite the Action's contention that it is old and well known that glycerin is a natural substance, the Jacob patent fails to disclose a naturally sourced glycerin. Therefore, claim 6 is not anticipated by Jacob.

The novel feature of claim 9 is incorporated into revised independent claim 6, and claim 9 is subsequently canceled by this amendment. Thus, the rejection of claim 9 is rendered moot.

Claim 10 recites the tampon of claim 6 and further recites that the glycerin is present between about 0.1 grams to about 20% of the total weight of the tampon. As noted above with respect to claim 6, Jacob fails to disclose or suggest a tampon with naturally sourced glycerin present between about 0.01 grams to about 50% of the total weight of the tampon. Therefore, it follows that Jacob fails to disclose or suggest the tampon of claim 6 with glycerin present between about 0.1 grams to about 20% of the total weight of the tampon, as recited in claim 10. Thus, claim 10 is not anticipated by Jacob.

Independent claim 11 recites a tampon for absorbing body fluids. The tampon has thereon a malodor counteractant material comprising: glycerin and at least one additional malodor counteractant material selected from the group consisting of: aldehyde, natural oil, solution of soluble natural compound, natural plant and herb extract, naturally occurring deodorizing active, citric acid, base, EDTA, ester, masking agent, sensory receptor alterant, oxidizing agent, biological agent, surfactant, surface active polymer, zeolite, and any mixtures thereof.

Applicants respectfully submit that Jacob fails to disclose or suggest a tampon having thereon a malodor counteractant material comprising glycerin and at least one additional malodor counteractant material selected from the claimed Markush group. Again, Jacob is limited to only the use of ascorbic acid primarily as an antitoxin and secondarily as a deodorizer. As noted above, no other compounds or ingredients are disclosed or suggested in Jacob as having malodor counteractant properties, such as those recited in claim 11. Therefore, it is respectfully submitted that Jacob clearly fails to anticipate claim 11.

Dependent claims 12 through 15 each recite the tampon of claim 11 and add the features that both the glycerin and one or more additional malodor counteractant materials are in liquid form and are naturally sourced. Applicants respectfully submit that Jacob fails to disclose or suggest these features, in addition to failing to disclose or suggest the tampon recited in claim 11. Therefore, claims 12 through 15 are not anticipated by Jacob.

Independent claim 20 recites a tampon for absorbing body fluids. The tampon includes a fibrous material suitable for absorbing said body fluids and a liquid glycerin that does not support microbial growth disposed in the tampon to absorb odors associated with said body fluids.

Applicants respectfully submit that Jacob fails to disclose or suggest a tampon with liquid glycerin that does not support microbial growth disposed in the tampon to absorb odors associated with said body fluids, as recited in claim 20. As noted above,

Jacob discloses the use of only one main component of its invention, namely ascorbic acid, which is used primarily as an antitoxin. Jacob also notes that ascorbic acid has deodorizing properties. As part of a laundry list of other ingredients used to form an inert carrier for the ascorbic acid, glycerin is disclosed in an amount of 5-10% (w/w). Nowhere is glycerin disclosed or suggested as being a malodor counteractant, let alone one that does not support microbial growth, as in claim 20. Therefore, Jacob cannot anticipate claim 20.

Dependent claim 22 recites the tampon of claim 20 and further includes the feature that the liquid glycerin is naturally sourced. As noted above, Jacob fails to disclose or suggest such a feature and therefore does not anticipate claim 22.

Claim 24 recites a method of deodorizing a vaginal area comprising the step of applying the tampon of claim 1 to the vaginal area. The one or more malodor counteractant materials counteracts malodor in the vaginal area.

As noted above for claim 1, Applicants respectfully reiterate that Jacob fails to disclose or suggest a tampon with one or more malodor counteractant materials selected from the claimed Markush group present between about 0.01 grams to about 50% of the total weight of the tampon. Moreover, it follows that Jacob also fails to disclose or suggest the method recited in claim 24. Therefore, Jacob fails to anticipate claim 24.

Independent claim 26 recites a method of deodorizing a vaginal area. The method includes applying to the vaginal area a fibrous absorbent article having thereon a malodor counteractant material comprising glycerin; and at least one additional malodor counteractant material selected from the group consisting of: aldehyde, natural oil, solution of soluble natural compound, natural plant and herb extract, naturally occurring deodorizing active, citric acid, base, EDTA, ester, masking agent, sensory receptor alterant, oxidizing agent, biological agent, surfactant, surface active polymer, zeolite, and any mixtures thereof. The glycerin and the at least one additional malodor counteractant material counteracts malodor in the vaginal area.

Similar to the arguments presented above with respect to claim 11, Applicants respectfully submit that Jacob fails to disclose or suggest a method for deodorizing a vaginal area comprising the step of applying to the vaginal area a fibrous absorbent article having thereon a malodor counteractant material comprising glycerin and at least one additional malodor counteractant material selected from the claimed Markush group, recited in claim 26. Therefore, it is respectfully submitted that Jacob clearly fails to anticipate claim 26.

Claim 27 recites a method of deodorizing a vaginal area comprising applying to the vaginal area a fibrous absorbent article having a fibrous material suitable for absorbing body fluids and a liquid glycerin that does not support microbial growth disposed in said fibrous material. The liquid glycerin is present in an amount between about 0.01 grams to about 50% of the total weight of the fibrous absorbent article and the liquid glycerin counteracts malodor in the vaginal area.

Similar to the arguments set forth above with respect to claim 20, Applicants respectfully submit that Jacob fails to disclose or suggest a method of deodorizing a vaginal area comprising applying to the vaginal area a fibrous absorbent article having a fibrous material suitable for absorbing body fluids and a liquid glycerin that does not support microbial growth disposed in said fibrous material, as recited in claim 27. Moreover, Jacob also fails to disclose or suggest a glycerin present in an amount between about 0.01 grams to about 50% of the total weight of the fibrous absorbent article, as required by claim 27. Therefore, claim 27 is not anticipated by Jacob.

Claim 28 recites a fibrous absorbent article for absorbing body fluids. The fibrous absorbent article comprises one or more malodor counteractant materials selected from the group consisting of aldehyde, natural oil, solution of soluble natural compound, natural plant and herb extract, naturally occurring deodorizing active, ester, sensory receptor alterant, oxidizing agent, biological agent, surfactant, surface active polymer, and any mixtures thereof. The one or more malodor counteractant materials is in a liquid form.

Applicants respectfully submit that Jacob fails to disclose or suggest a fibrous absorbent article comprising one or more malodor counteractant materials selected from the claimed Markush group, as recited in claim 28. As noted above, Jacob limits its disclosure to ascorbic acid as an antitoxin and deodorizer. No other deodorizers are disclosed or suggested in Jacob, let alone any of those recited in claim 28. As such, Jacob does not anticipate claim 28.

Overall, it is respectfully submitted that Jacob fails to anticipate claims 1, 3 through 15 and 20 through 30. In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the §102(b) rejection of these claims.

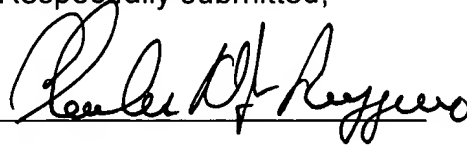
Claim 17 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Jacob in view of U.S. Patent No. 5,037,412 to Tanzer et al. (Tanzer).

Applicants respectfully submit that the feature of claim 17 has been incorporated into revised independent claim 11, with the subsequent cancellation of claim 17. Therefore, the rejection of claim 17 is rendered moot. Moreover, as noted above, claim 11 is patentably distinguishable over Jacob. Applicants respectfully submit that Tanzer does not cure any of the deficiencies of Jacob, namely the failure to disclose or suggest a tampon having thereon a malodor counteractant material comprising glycerin and at least one additional malodor counteractant material selected from the claimed Markush group.

Applicants assert that claims 1, 3, 5 through 7, 10 through 15, 20 through 24, and 26 through 30 are patentably distinguishable over the cited art. As such reconsideration and withdrawal of the above rejections and passage of this application to allowance is respectfully requested.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", is written over a horizontal line.

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